



## ***CLOSED CASE SUMMARY***

ISSUED DATE: APRIL 11, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0513

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

#### **Named Employee #2**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

#### **Named Employee #3**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

#### **Named Employee #4**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged that Named Employees #1, #2, #3, and #4 (NE#1 – NE#4) were antagonistic in the way that they repeatedly questioned her about an incident, causing the Complainant to feel bullied and intimidated. The Complainant further alleged that the basis for the NEs' disrespectful attitude was the Complainant's gender. Lastly, it was alleged that NE#1 failed to conduct a thorough and complete search for evidence.



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**ADMINISTRATIVE NOTE:**

During its Intake Investigation, OPA identified one allegation that it returned to the Chain of Command to be handled via a Supervisor Action. Upon review of the relevant police report and Body Worn Video (BWV), OPA determined that NE#1 did not take photographs of the involved parties or record details regarding the alleged injuries. This matter was directed to NE#1's Chain of Command to address through training, communication, or coaching by the employees' supervisor(s).

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

**SUMMARY OF INVESTIGATION:**

All relevant portions of the interaction between the Named Employees and the Complainant were captured on BWV. Accordingly, the relevant facts are not in credible dispute.

On September 16, 2021, the Named Employees responded to a 911 call at an apartment building, involving an individual who had allegedly been sprayed with pepper spray. NE#2 and NE#3 were the first officers to arrive on scene, whereupon they met the 911 caller in the apartment lobby. BWV showed the 911 caller's eyes to be closed, an ocular condition that Seattle Fire Department medics worked to treat while NE#3 took the caller's statement. In his statement, the caller advised NE#2 and NE#3 that the Complainant had sprayed him with pepper spray and that he had a restraining order against the Complainant. According to the 911 caller, this order was put in place due to the Complainant's frequent allegations that the 911 caller had hit her, adding that the Complainant had been arrested three times based on this order. The caller added that the order had expired 2-3 months ago.

The 911 caller also stated that the pepper spraying was unprovoked, that he has been involved in incidents with the Complainant in the past, and that the Complainant had a pre-existing condition around her eyes that she previously claimed was an injury perpetrated by the caller. In response to this information, NE#3 provided the caller with domestic violence (DV) information, while NE#2 ran a computer check pertaining to the order. This search resulted in the identification of the order, which was no longer valid. Once NE#4 was on scene, he provided the 911 caller with a DV pamphlet.

NE#1 arrived on scene last, at which time he discussed the case with the other officers and spoke to the 911 caller. After this interview, NE#1 headed to the Complainant's apartment with NE#2 and NE#4. NE#3 remained with the 911 caller. Once at the Complainant's apartment, NE#1 interviewed the Complainant regarding the incident. The Complainant stated that the 911 caller had come up to her and started hitting her, at which point she sprayed the caller with pepper spray.

NE#1 and NE#2 then consulted with one another regarding the case, during which time NE#1 discussed how the Complainant's allegations of injuries seemed to diverge from her physical condition. After this discussion, NE#1 made the decision to arrest the Complainant. NE#1 apprised the Complainant of the basis of the arrest, after which point in time the Complainant was placed into custody. NE#4 assisted in the handcuffing of the Complainant and requested a



sergeant when the Complainant asked to speak with a supervisor, then assisted the Complainant by locating possessions within her bag, which she wished to bring with her during transport.

After the Complainant was placed under arrest, NE#2 spoke with the 911 caller to confirm some of his account, then explained the basis for the arrest to the Complainant once more. A sergeant arrived on scene to screen the call, after which time the Complainant was placed in an SPD vehicle and transported from the scene.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional***

The Complainant alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (Id.)

The Complainant alleged that the Named Employees “tag-teamed” and repeatedly questioned her, which caused her to feel bullied and intimidated. In reviewing BWV of the Named Employees’ response to the incident, OPA determined that NE#1 took the lead in interviewing the Complainant, during which time he asked the Complainant questions regarding her involvement in the incident. After this interview, NE#1 made the decision to arrest the Complainant. While BWV did depict the Named Employees working to explain the basis of the arrest and answer the Complainant’s questions, there was no indication that the Named Employees questioned the Complainant in the way she alleges, or that the Named Employees were unprofessional in their interaction with the Complainant.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

##### **Named Employee #1 - Allegation #2**

##### ***5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged that NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (See id.)



The Complainant alleged that the Named Employees were dismissive of her and disrespectful due to her gender. From BWV of the incident, there was no indication whatsoever that the Complainant's gender impacted the actions of the Named Employees, including the level of professionalism they exhibited or the consideration they gave to the statements of the involved parties. Instead, the evidence suggests that the Named Employees had probable cause to arrest the Complainant based on the caller's allegation that she pepper sprayed him—which was corroborated by the caller visibly under the effects of pepper spray. Moreover, the Named Employees appeared to make a credibility determination as to who was the primary aggressor based on objective factors with no connection to gender, for example, the absence of visible injury to the caller's hands, the absence of visible injury to the Complainant's face and neck, and the caller's recently expired protection order against the Complainant.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 - Allegation #1**

***5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 - Allegation #2**

***5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing***

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #3 - Allegation #1**

***5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #3 - Allegation #2**

***5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing***

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**



**Named Employee #4 - Allegation #1**

***5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #4 - Allegation #2**

***5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing***

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded (Expedited)**